

STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

HAWAII GOVERNMENT  
EMPLOYEES ASSOCIATION,  
AFSCME, LOCAL 152, AFL-CIO,

Petitioner.

CASE NO. 19-RA-00-244

ORDER NO. 3550

ORDER GRANTING DEPARTMENT  
OF THE ATTORNEY GENERAL,  
STATE OF HAWAI'I, AND  
DEPARTMENT OF HUMAN  
RESOURCES DEVELOPMENT, STATE  
OF HAWAI'I, PETITION FOR  
INTERVENTION

ORDER GRANTING DEPARTMENT OF THE ATTORNEY GENERAL,  
STATE OF HAWAI'I, AND DEPARTMENT OF HUMAN RESOURCES  
DEVELOPMENT, STATE OF HAWAI'I, PETITION FOR INTERVENTION

On July 31, 2019, Petitioner HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) filed a Petition for Clarification or Amendment of Appropriate Bargaining Unit (Clarification Petition) with the Hawai'i Labor Relations Board (Board) regarding 48 Investigator V and VI positions in the Department of the Attorney General, Investigation Division, excluded from collective bargaining, which, among other things, listed the DEPARTMENT OF THE ATTORNEY GENERAL, STATE OF HAWAI'I (ATG), and DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT, STATE OF HAWAI'I (DHRD), as public employers. HGEA also alleges that the employees in these positions are being denied collective bargaining rights and representation, without justification and should be included in bargaining units (13) or (14) (Units 13 and 14, respectively).

On August 1, 2019, the Board issued a Notice of Receipt of Petition for Clarification or Amendment of Appropriate Bargaining Unit; Notice of Deadline for Filing Petitions for Intervention; Notice of Board Conference, which, among other things, provided that "Interested persons wishing to intervene in the proceedings must comply with Hawai'i Administrative Rules (HAR) § 12-42-8(g)(14) shall file a Petition for Intervention with the Board by 4:30 p.m. on August 15, 2019.

On August 8, 2019, the ATG and DHRD (ATG and DHRD, respectively, and collectively Intervention Petitioners) filed Department of Attorney General and Department of

Human Resources Development, State of Hawai‘i, Petition for Intervention in this matter (Intervention Petition). In the Intervention Petition, the Intervention Petitioners requested intervention because “the employees in the Investigatory positions are employed by the ATG. The Petitioners can assist the Board in the development of a sound record and the Petitioners[‘] participation will not broaden the issue or delay the proceeding.”

HAR § 12-42-8(g)(14) states:

- (1) Intervention in proceeding:
  - (A) In any proceeding other than representation proceedings, a petition to intervene and become a party thereto shall be submitted in writing to the board.
  - (B) The petition shall contain the following:
    - (i) Nature of petitioner’s statutory or other right.
    - (ii) Nature and extent of petitioner’s interest.
    - (iii) Effect of any decision in the proceeding on petitioner’s interest.
    - (iv) Other means available whereby petitioner’s interest may be protected.
    - (v) Extent petitioner’s interest may be represented by existing parties.
    - (vi) Extent petitioner’s participation can assist in development of a sound record.
    - (vii) Extent petitioner’s participation will broaden the issue or delay the proceeding.
    - (viii) Extent petitioner’s interest in the proceeding differs from that of the general public.
    - (ix) How the petitioner’s intervention would serve the public interest.
  - (C) The original and five copies of the petition with certificate of service on all parties, shall be filed with the board.
  - (D) Intervention shall not be granted except on averments which are reasonably pertinent to the issues already presented but do not unduly broaden them. If intervention is granted, the petitioner thereby becomes an intervenor and a party to the proceeding to the degree indicated by the order allowing intervention.

The HGEA has filed no response to the Intervention Petition.

Applying the factors set forth in HAR § 12-42-8(g)(14), the Board determines that the Petition for Intervention should be granted. Both the Intervention Petition and the Clarification Petition designate ATG and DHRD as the public employers involved in this matter. DHRD is the statutory employer under Hawai'i Revised Statutes § 89-6(d)(1) for both Units 13 and 14, and the Investigator V and VI positions at issue are assigned to the ATG. Accordingly, the Intervention Petitioners have articulated in their Intervention Petition, the nature of their statutory rights as public employers and their interest in this case. The Board finds that because HGEA is the exclusive representative for these Units, HGEA cannot and does not represent the interests of these Intervention Petitioners. Further, there does not appear to be any other available means for their interests to be protected. Therefore, the participation of DHRD and ATG would assist in the development of a fuller and sounder record, which will serve the public interest.

For these reasons, the Board grants the Petitions for Intervention.

DATED: Honolulu, Hawai'i, August 20, 2019.

HAWAI'I LABOR RELATIONS BOARD



MARCUS R. OSHIRO, Chair

SESNITA A.D. MOEPONO, Member

J.N. MUSTO, Member

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